

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOHN W. WASHINGTON, as next)	
friend of MAE R. WASHINGTON,)	
)	
Plaintiff,)	
)	
v.)	Civ. Act. No.: 2:17-cv-855-ECM
)	
BIO-MEDICAL APPLICATIONS)	
OF ALABAMA, INC., a foreign)	
corporation,)	
)	
Defendant.)	

MEMORANDUM OPINION and ORDER

Plaintiff filed this lawsuit asserting that Defendant’s employees negligently and wantonly failed to prevent Plaintiff’s mother from falling out of a wheelchair. After Defendant filed its answer, Plaintiff moved to strike (doc. # 15) all affirmative defenses that alleged that the Alabama Medical Liability Act (“AMLA”), Ala. Code 1975 §§ 6-5-540 through 6-5-552, applied to this case. On January 31, 2018, Magistrate Judge Terry Moorer recommended that the motion to strike be denied, concluding that the AMLA applies to this case. (Doc. # 24). On May 15, 2018, Judge Myron Thompson entered an Opinion and Order that (1) overruled the Plaintiff’s objections to Magistrate Judge Moorer’s Report and Recommendation, (2) adopted the Recommendation of Magistrate Judge Moorer, and (3) denied Plaintiff’s motion to strike. (Doc. # 49).

On June 15, 2018, Plaintiff filed a Motion in Limine (Second Motion in Limine, doc. # 53), seeking a ruling that the Plaintiff shall not be required to present expert testimony to establish the standard of care, which is typically required under the AMLA. This matter is now before the Court on the Recommendation of Magistrate Judge Moorer that Plaintiff's Second Motion in Limine be denied. (Doc. # 65). Also before the Court are Plaintiff's objections to the Recommendation. (Doc. # 66).

After an independent and *de novo* review of the record and the Recommendation, the Plaintiff's objections are due to be overruled and Magistrate Judge Moorer's Recommendation is due to be adopted. Accordingly, it is

ORDERED that:

1. The Recommendation of the Magistrate Judge (doc. # 65) is ADOPTED.
2. The Plaintiff's objections (doc. # 66) are OVERRULED.
3. The Plaintiff's Second Motion in Limine (doc. # 53) is DENIED.

DONE this 22nd day of October, 2018.

/s/ Emily C. Marks
EMILY C. MARKS
UNITED STATES DISTRICT JUDGE